Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
National Exchange Carrier Association	)	WC Docket No. 04-259
Petition to Amend Section 69.104 of the	)	
Commission's Rules	)	

COMMENTS OF SBC COMMUNICATIONS INC.

SBC Communications Inc. ("SBC"), on behalf of its local exchange telephone company affiliates, hereby files these comments in response to the Notice of Proposed Rulemaking in the above-referenced docket.[1] As SBC demonstrates herein, price cap LECs have interstate-allocated common line costs that will not go away if the Commission reduces the number of end user common line charges ("EUCLs" or "SLCs") that LECs can assess for derived channel T-1 services. Thus, to the extent the Commission modifies Section 69.152 to reduce the number of SLCs price cap LECs can assess for these services, it must contemporaneously ensure that price cap LECs can fully recover their interstate common line costs.

I. BACKGROUND SUMMARY

The Commission in 1983 implemented new access charge rules that, in part, recovered common line plant costs allocated to the interstate jurisdiction directly from end users through flat-rated EUCLs.[2] Residential end users paid one rate, and business end users a higher rate, with both rates subject to a Commission-imposed price ceiling. Pursuant to the Commission's rules, carriers, both rate-of-return and price cap, assessed one SLC per line, which the

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[1] *National Exchange Carrier Association Petition to Amend Section 69.104 of the Commission's Rules,* Notice of Proposed Rulemaking, WC Docket No. 04-259 (July 19, 2004) ("NPRM").

[2] *MTS and WATS Market Structure,* Third Report and Order, 93 FCC Rcd 241, modified on recons., 97 FCC2d 682 (1983).

Commission defined to mean per channel.[3] Thus for services such as derived channel T-1 services, which have 24 channels, LECs have assessed up to 24 SLCs.

In 1997, in the *Access Charge Reform First Report and Order*,[4] the Commission re-examined its requirement that LECs assess one EUCL per channel for loops used to provide ISDN and other derived channel services.[5] The Commission determined that EUCLs assessed for ISDN services should be based on the non-traffic sensitive ("NTS") costs attributable to the provision of those services and reasoned that it was appropriate to base the application of the SLC on a ratio of the average LEC NTS cost of providing the ISDN service to the average cost of providing a basic analog line.[6] Cost data submitted by the LECs demonstrated that the NTS loop costs of PRI ISDN service (which, like T-1 services, has 24 channels) reflected a cost ratio of approximately 5:1 compared to the NTS loop costs of single-channel analog service.[7] Thus, consistent with its overall goal of aligning rates to costs, the Commission created an exception to it's per channel EUCL assessment rule to permit LECs to assess only up to five EUCLs for PRI ISDN services.[8]

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[3] 47 C.F.R. Part 36, App.-Glossary.

[4] *Access Charge Reform*, First Report and Order, 12 FCC Rcd 15982 (1997).

[5] *Id.* ¶112.

[6] *Id.* ¶ 115-116.

[7] *Id.* ¶ 116.

[8] The maximum SLC rate price cap LECs could assess for multi-line business lines was calculated by dividing 1/12th of the projected annual revenues permitted for the common line basket by the projected number of local exchange service subscriber lines in use during that annual period, subject to a Commission-imposed cap. Because the Commission's EUCL assessment rules required the EUCL to be assessed on a per channel basis, each T-1 derived channel was counted as one line for purposes of this calculation, i.e. 24 lines per projected T-1 derived channel service. This meant that the total projected number of local exchange lines was higher than it would have been had the Commission only permitted LECs to assess five EUCLs for these services, which, pursuant to this order, was the case for PRI ISDN services. Because of the treatment of T-1 services, the resulting EUCL rate was lower than it would have

Importantly, recognizing that common line costs were not eliminated by the reduction in SLCs assessments, the Commission permitted price cap LECs to offset the loss in EUCL revenue for PRI ISDN services. The Commission increased the EUCL cap to enable these carriers to recover their common line revenues and further permitted LECs to assess a PICC on ISDN services to the extent they could not fully recover their common line revenues because of the EUCL cap. Accordingly, LECs raised their EUCL rate if it was below the EUCL cap, or raised the PICC (or raised the CCLC if the PICC was at its cap) to recoup the revenue shortfall.[9] Further, LECs were permitted to assess an ISDN line port charge to recover certain ISDN line port costs.[10] Because of the limited record in that proceeding, the Commission's revised EUCL assessment rules only applied to ISDN services.[11] Thus, LECs were still required to assess one EUCL per channel for non-ISDN derived channel services, which for T-1 derived channel services is 24 EUCLs.

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been if the Commission had aligned EUCL rates for T-1 services with costs when it did so for PRI ISDN services. In addition, other services would have borne a larger share of the interstate revenue requirement and/or IXCs would have paid more in PICC and CCL charges to allow the LECs to fully recoup their common line costs.

Nothing in the Commission's 2000 CALLS order corrected the misalignment of EUCL rates with costs with respect to T-1 services. *Access Charge Reform*, Sixth Report and Order in CC Docket Nos. 262 and 94-1, 15 FCC Rcd 12962 (2000). Under the rules adopted therein, which remain in effect today, the maximum EUCL rate for multi-line business lines is the lesser of the Commission-established EUCL cap of $9.20 or the greater of (1) the rate as of June 30, 2000, less reductions needed to ensure over recovery of CMT Revenue does not occur; or (2) the average price cap CMT revenue per line month ("Average CMT Revenue Rate"). 47 C.F.R. §69.152. The Average CMT Revenue Rate was calculated by dividing the year 2000 base period demand revenues by the number of lines in the study area. 47 C.F.R. § 61.3(d). Because SBC and other price cap LECs were still required to treat each T-1 derived channel as one line (i.e. 24 lines), T-1 derived channel services increased the number of lines included in the calculation, resulting in a lower Average CMT Revenue Rate. Thus, for carriers like SBC with an average CMT Revenue Rate is lower than the EUCL cap, they could only assess a maximum EUCL rate equal to their Average CMT Revenue Rate for all multi-line business line services.

[9] *Id.* ¶118.

[10] *Id.* ¶117.

[11] *Id.* ¶120.

In September of 2002, the National Exchange Carrier Association ("NECA") filed a petition for rulemaking, asking the Commission to initiate a proceeding to revise its EUCL assessment rules for derived channel T-1 services where the customer provides the terminating channelization equipment (hereinafter referred to as "T-1 derived channel services" or "T-1 services").[12] Specifically, NECA requested that the Commission treat T-1 derived channel services in the same manner as PRI ISDN services and permit rate-of-return carriers to assess no more than five EUCLs for loops used to provide these T-1 services.[13]

The Commission granted NECA's request and initiated this rulemaking to examine whether Sections 69.104 and 69.152, which require LECs to assess a SLC on a per channel basis for T-1 derived channel services, are consistent with its effort to align rates with costs.[14] Additionally, the Commission proposed to re-examine whether the 5:1 cost ratio previously adopted for PRI ISDN services is still appropriate.[15] For both services, the Commission asked parties supporting a specific cost relationship between these derived channel services and basic, analog services to file cost data demonstrating the cost relationship. Further, the Commission asked, if it were to revise its SLC assessment rules for derived channel services, whether it should apply such changes solely to new services, or modify the maximum CMT revenue per line permitted under section 61.3(d) of the Commission's rules to enable LECs to recover any loss in EUCL revenues.[16]

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[12] National Exchange Carrier Association, Inc. Petition to Amend Section 69.104 of the Commission's Rules, RM 10603, Joint Petition for Expedited Waiver (filed Aug. 19, 2003).

[13] *NPRM* ¶9.

[14] *NPRM* ¶ 15.

[15] *NPRM* ¶¶15, 20.

[16] *NPRM* ¶30.

As SBC has demonstrated in many proceedings,[17] and most recently in the Intercarrier Compensation Proceeding,[18] it generally supports Commission alignment of rates with costs. However, as SBC has also demonstrated, the Commission cannot do so in a vacuum or in a piecemeal fashion. A price cap LEC's interstate revenue requirement associated with their common line costs will not change in the event the Commission reduces the number of SLCs that can be assessed for derived channel services. Thus, in modifying its EUCL assessment rules, the Commission must ensure that price cap LECs can continue to fully recover their interstate common line costs.

SBC proposes two alternatives, both of which balance the Commission's goal of aligning rates to costs with price cap LECs need to minimize any shortfall in recovery of their common line costs. Under the preferred approach, the Commission would maintain the status quo for these services and resolve this issue in the more global Intercarrier Compensation Proceeding. Alternatively, if the Commission modifies it rule to permit price cap LECs to assess only up to five SLCs or thereabout for T-1 services, it must allow these LECs to recalculate their Average CMT Revenue Rate per line so that they can fully recover their interstate common line revenues.

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[17] *See, e.g.* Comments of SBC Communications, Inc, Federal-State Joint Board on Universal Service, Further Notice of Proposed Rulemaking, CC Docket No.96-45 (2003).

[18] Ex Parte Brief of the Intercarrier Compensation Forum in Support of the Intercarrier Compensation and Universal Service Reform Plan, *Developing a Unified Intercarrier Compensation Regime*, Notice of Proposed Rulemaking, CC Docket No. 01-92, 16 FCC Rcd 9610 (2001).

II. SBC SUPPORTS THE ALIGNMENT OF RATES TO COSTS, HOWEVER, ANY REALIGNMENT HERE MUST CONTEMPORANEOUSLY PROVIDE LECS THE OPPORTUNITY TO RECOVER THE EUCL REVENUE LOSS

SBC anticipates that the record will show that the costs for T-1 derived channel services[19] are similar to the costs for PRI ISDN services, as these services have similar loop costs, use essentially the same plant facilities, and are similarly provisioned. Based on the existing cost record for PRI ISDN services, SBC believes that imposing a maximum of five EUCLs for T-1 derived channel services may be warranted. SBC, however, only supports a reduction in the number of EUCLs assessed for T-1 derived channel services if price cap LECs have the opportunity to recoup the shortfall in recovery of their common line costs caused by the decrease in EUCL demand for these services. In this regard, SBC below proposes two alternatives, both of which ultimately further the Commission's goal of aligning rates to costs for T-1 derived channel services, while minimizing any loss in price cap LECs' recovery of their interstate-allocated common line costs.

A. Maintain The Status Quo And Resolve This And Other EUCL Issues In The Intercarrier Compensation Proceeding.

In the Intercarrier Compensation Proceeding, the Intercarrier Compensation Forum ("ICF"), an industry forum supported by representatives of all sectors of the telecommunications industry, filed a plan ("ICF Plan") to reform the manner in which carriers compensate each other and recoup their costs.[20] Specifically, that plan calls for the transition from the Commission's access charge regime to a bill-and-keep regime. The plan proposes increased SLC rate caps and,

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[19] Costs refers only to loop costs and would not include any costs associated with channelization at the central office.

[20] Intercarrier Compensation and Universal Service Reform Plan, CC Docket No. 01-92, filed Oct. 5, 2004 ("ICF Plan").

where necessary, new explicit federal universal service support mechanism to address the elimination of intercarrier compensation cost recovery by rate regulated carriers.

In this proceeding, the Commission is considering whether to reduce the number of SLCs assessed on T-1 derived channel services. For price cap LECs, any decrease in the number of SLCs assessed for these services would cause a shortfall in recovery of their interstate-allocated common line costs. To ensure that price cap LECs have the opportunity to fully recover these costs, the Commission must allow carriers to raise their EUCL. Given that the Commission will consider an increase in end user charges via the EUCL in the Intercarrier Compensation Proceeding, the most reasonable approach is for the Commission to address all potential increases to the EUCL in the context of that proceeding. While that proceeding raises issues much larger than those teed up here, from a EUCL perspective, the impact to end users may well be the same, i.e. increased EUCL rates. SBC does not believe it is in the public interest to address these two EUCL-related issues in a piece-meal fashion,[21] but rather in one proceeding, thereby eliminating the likelihood of multiple EUCL increases for consumers.

B. Permit Price Cap LECs To Recalculate Their Average CMT Revenue Rate

Alternatively, if the Commission determines that is should resolve this issue here, rather than in conjunction with the Intercarrier Compensation Proceeding, the Commission must afford price cap LECs the opportunity to recover the shortfall in recovery of their common line costs. Such an approach would be consistent with the approach taken in 1997 in the *Access Reform*

[21] Notably, SBC estimates that it would take roughly 9 months and 3255 hours of labor to perform the necessary billing and customer care modifications to reflect the changes in EUCL assessments. Given that LECs necessarily will have to modify their billing and other systems to implement rule changes adopted in the ICF proceeding—rule changes that likely will involve the EUCL– the most reasoned approach is for carriers to implement all such changes at once, which will save carriers significant time and resources.

First Report and Order. In restructuring its overall access rate structure, the Commission specifically increased the SLC ceilings for multi-line business lines to enable LECs to recover their average per-line interstate common line costs for these services directly from end users.[22] LECs were permitted to assess a maximum EUCL rate for these services equal to their average per-line revenue rate (subject to the new EUCL cap), the calculation of which accounted for the new 5:1 cost ratio for PRI ISDN services. LECs, accordingly, were able to minimize any shortfall in recovery of their common line costs caused by the reduction in EUCL demand for those services. Similar action is warranted here.

The fact is SBC and other price cap LECs' interstate revenue requirement for common line costs was, in part, based on the assessment of 24 EUCLs for each derived channel. Importantly, the LECs' revenue requirement will not change if the Commission reduces the number of EUCLs carriers can assess for T-1 derived channel services. However, the reduction in EUCL assessments will impact the ability of price cap carriers to meet their interstate revenue requirement. To ensure that price cap LECs can fully recover their common line revenues, any reduction in the EUCL demand for T-1 derived channel services must be reflected in the overall EUCL demand used to calculate the maximum revenue rate per line. Specifically, consistent with Section 61.3(d),[23] the Commission must permit price cap LECs to (1) recast their overall demand to reflect the reduction in EUCL demand and (2) recalculate their current Average Price Cap CMT Revenue per line. This, in effect, would allow SBC and other price cap LECs to raise their EUCL rate, subject to the EUCL cap, and fully recover their common line costs.[24]

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[22] *Access Charge Reform First Report and Order*, 12 FCC Rcd at 16013.

[23] 47 C.F.R. §61.3(d)(3).

[24] Under this approach, price cap carriers at the EUCL cap would recover the revenue shortfall from PICC and CCL charges.

III. Conclusion

For the foregoing reasons, the Commission should maintain the status quo of these services and resolve this issue in the more global Intercarrier Compensation Proceeding, in the alternative, if the Commission modifies Section 69.152 of its rules to reduce the number of SLCs price cap LECs can assess for T-1 derived channel services, it must simultaneously ensure that price cap LECs have an opportunity to fully recover their interstate-allocated common line costs.

Respectfully Submitted,

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